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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
\$75,511 IN UNITED STATES )  
CURRENCY, )  
 )  
Defendant. )

**No. C 07-06353 BZ**

**UNITED STATES' SUPPLEMENTAL  
CASE CONFERENCE STATEMENT**

Date: April 14, 2008  
Time: 4:00 pm.  
Place: Honorable Bernard Zimmerman, 15<sup>th</sup>  
Floor

Pursuant to FRCP 26(f) and Local Rule 16-9, Plaintiff United States of America submits this statement as a separate status conference statement. <sup>1</sup>

**1. Jurisdiction and Service**

This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1355, Title 21, United States Code, Section 881. All persons known to have an interest in the defendant property have been served. Manuel Cabrera-Gutierrez and Maria Rosa Villalon-Garnica filed a claim to the *in rem* defendant.

<sup>1</sup> At the time of this drafting, counsel for claimants Manuel Cabrera-Gutierrez and Maria Rosa Villalon-Garnica is unavailable, and the parties were not able to file a joint statement. In fact, the government is informed that claimants' counsel will be unavailable until April 10, 2008.

**2. Facts**

This is a forfeiture case. The government commenced this action with the filing of a civil forfeiture complaint on December 14, 2007. The defendant currency was seized by the Pleasanton Police Department from 38587 Kirk Terrace, Fremont, CA, following the execution of a search warrant. In its complaint, the government alleges that the defendant currency was furnished or intended to be furnished to another person in exchange for a controlled substance, constitutes proceeds derived from such an exchange, and was used or intended to be used to facilitate a drug trafficking offense, and it is thus forfeitable under Title 21, United States Code, Section 881(a)(6).

**3. Legal Issues**

The principal factual and legal issues in dispute are: (1) whether claimants Manuel Cabrera-Gutierrez and Maria Rosa Villalon-Garnica can establish that they are innocent owners of the defendant currency; (2) whether the government can establish by a preponderance of the evidence that defendant currency is forfeitable.

**4. Motions**

The government may file a motion for summary judgment following the close of discovery.

**5. Amendment of Pleadings**

At this time, the government does not anticipate filing any amended pleadings.

**6. Disclosures**

This is an *in rem* forfeiture case and is exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26 (a)(1)(B)(ii).

**7. Discovery**

The parties have not engaged in any discovery at this time. The government suggests another case management conference would be appropriate in four to six months.

**8. Class Action**

This is not a class action.

**9. Related Case**

1 The government is not aware of any related cases at this time.

2 **10. Relief/Damages**

3 The government seeks a judgment of forfeiture of the defendant property. This is not a damages  
4 case.

5 **11. Settlement and ADR**

6 The parties have not yet had the opportunity to discuss settlement. At this juncture, it is  
7 premature to predict the likelihood of settlement, and ADR would be of more use at a later stage after  
8 initial discovery responses have been obtained.

9 **12. Consent to Magistrate Judge for All Purposes**

10 The government consents to a Magistrate Judge in this action.

11 **134. Narrowing of Issues**

12 At this juncture, it is premature to narrow the issues which the parties anticipate will be narrowed  
13 through the discovery process

14 **14. Scheduling**

15 The government suggests another case management conference would be appropriate in four to  
16 six months rather than scheduling discovery, pretrial and trial.

17 **15. Trial**

18 The parties have not yet discussed any trial issues.

19 Dated:

Respectfully submitted,

20 JOSEPH P. RUSSONIELLO  
21 United States Attorney

22 /s/  
23 \_\_\_\_\_  
24 DAVID B. COUNTRYMAN  
25 Assistant United States Attorney  
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